IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

CRP.No. 420 of 2006()

AGAINST THE ORDER DATED 15/06/2006 IN EP 150/04 IN OS.134/1998 of MUNSIFF COURT, TIRUR

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REVN. PETITIONER:-2ND RESPONDENT/2ND J.D.

M.P.ABDUL SAMAD, 6/13, MANCHERI
PARAMBIL HOUSE, KANAL, TIRUR-676 101,
MALAPPURAM DISTRICT.

BY ADV. SRI.P.CHANDRASEKHAR
SRI.MATHEW JAMES

RESPONDENTS: PETITIONER/DECREE HOLDER/JDS 1 AND 3

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1. NEDUNGADI BANK LTD., (NOW PUNJAB NATIONAL BANK AS PER THE NEDUNGADI BANK LTD), REPRESENTED BY THE BRANCH MANAGER, TIRUR.

2. ALOOR GOPINATH, S/O.VELAYUDHAN, RAHINA NO. 1 QUARTERS, PAN BAZAR, TIRUR.

3. ALOOR DASAN, S/O.VELAYUDHAN, SAVITHRI SADAN, PAYYANANGADI, TIRUR.

BY ADV. SRI.C.AJITH KUMAR

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Order on I.A.No.1688/06 in C.R.P. No.420/06

6.2.07 Dismissed Sd/- M.Sasidharan Nambiar
Judge

/true copy/

P.S. To Judge

Order on I.A.1688/06 in C.R.P. No.420/06

6.2.07 Dismissed Sd/- M.Sasidharan Nambiar
Judge

/true copy/

P.S. To Judge

M.Sasidharan Nambiar,J.

C.R.P.No.420 of 2006

Dated this the 6th day of February, 2007

O.R.D.E.R

Petitioner is the second judgment debtor in O.S.134/98 on the file of Munsiff Court, Tirur. First respondent is the decree holder. For realisation of the decree debt, respondent filed E.P.150/04. As per the impugned order dated 15.6.06, executing court directed arrest and detention of petitioner first judgment debtor. First judgment debtor did not challenge the order.The case of second judgment debtor is that he has no means and he did not get sufficient opportunity to disprove the documents produced by the bank relied on by the executing court and an opportunity is to be granted to adduce further evidence. Learned counsel appearing for decree holder submitted that if the court finds that an opportunity is to be granted, executing court may be directed to dispose the execution petition

expeditiously.

2. In view of the submission of learned counsel appearing for petitioner that second judgment debtor did not get sufficient opportunity to prove his case of no means, the order of arrest passed against second judgment debtor alone in E.P.150/04 is quashed. The executing court is directed to permit the parties to adduce further evidence and decide whether second judgment debtor has sufficient means to pay the decree debt. Executing court may dispose the execution petition expeditiously.

Civil Revision Petition is disposed as above.

M.Sasidharan Nambiar
Judge

tpl/-

M.SASIDHARAN NAMBIAR, J.

CRL.R.P.NO. /97

ORDER

MARCH,2006